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Adobe Systems Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**DECLARATION OF LIN W. KAHN
IN SUPPORT OF DEFENDANTS'
JOINT RESPONSE TO PLAINTIFFS'
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL**

Date Consolidated Amended Compl. Filed:
September 13, 2011

1 I, Lin W. Kahn, declare as follows:

2 1. I am an attorney with the law firm of Jones Day, counsel for Defendant Adobe
3 Systems Inc. ("Adobe") in the above-captioned action. I am admitted to practice law before this
4 Court. I submit this declaration in support of Defendants' Joint Response to Plaintiffs'
5 Administrative Motion to File Under Seal. As an attorney involved in the defense of this action,
6 unless otherwise stated, I have personal knowledge of the facts stated in this declaration and if
7 called as a witness, I could and would competently testify to them.

8 2. I have reviewed Plaintiffs' Notice of Motion and Motion for Application of Per Se
9 Standard ("Plaintiffs' Per Se Motion") and the Declaration of Lisa J. Cisneros in Support of
10 Plaintiffs' Memorandum of Law In Support of Application of the Per Se Standard ("Cisneros
11 Decl.").

12 3. As described below, the information requested to be sealed contains or
13 summarizes Adobe's compensation and recruiting data, practices, strategies and policies. Adobe
14 has designated this information as "CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant
15 to the Protective Order in this case. (ECF No. 107).

16 4. The October 9, 2012 Declaration of Donna Morris In Support of Defendants' Joint
17 Response to Plaintiffs' Administrative Motion to File Under Seal (ECF No. 196) ("10/9/2012
18 Morris Decl."), the January 9, 2014 Declaration of Jeff Vijungco in Support of Motion to Seal
19 (ECF No. 578), and the Declaration of Rosemary Arriada-Keiper in Support of Motion to Seal
20 (ECF No. 579) establish that Adobe's compensation data, practices, strategies and policies, as
21 well as its recruiting data, practices, strategies and policies (such as the information sought to be
22 redacted below), are confidential and commercially sensitive. As stated in these declarations, it
23 is Adobe's practice to keep such information confidential, for internal use only, and not to
24 disclose them to the public.

25 5. Moreover, these declarations establish that the public disclosure of this
26 information would competitively harm Adobe, including impairing its competitive position in
27 recruiting, hiring, and compensating employees. Ms. Arriada-Keiper and Mr. Vijungco declared
28 that Adobe derives independent economic value from keeping its compensation data and

1 compensation, recruiting and hiring practices, strategies, and policies confidential, including
 2 keeping it from other persons, entities, and/or competitors who could obtain economic value from
 3 its disclosure or use.

4 6. Furthermore, as stated in the above declarations, the public disclosure of this
 5 information, created for internal use, would give third-parties insights into confidential and
 6 sensitive aspects of Adobe's operations and deprive Adobe of its investment in developing these
 7 practices, strategies, and policies. These declarations further establish that such disclosure would
 8 give other entities an unearned advantage by giving them the benefit of knowing how Adobe
 9 compensates employees and Adobe's compensation, recruiting, and hiring practices, strategies,
 10 and policies.

11 7. In addition to the above, Adobe's declarations filed in support of the Opposition to
 12 Plaintiffs' Motion for Class Certification also establish the confidentiality of Adobe's
 13 compensation and recruiting data, practices, strategies and policies. In particular, the Declaration
 14 of Donna Morris of Adobe Systems Inc. in Support of the Opposition to Plaintiffs' Motion for
 15 Class Certification (ECF No. 215, Exhibit 14) ("11/9/2012 Morris Decl."), paragraph 3,
 16 establishes that Adobe's salary and compensation data, policies and strategies are confidential and
 17 that public dissemination of that information could cause Adobe competitive harm. The
 18 Declaration of Jeff Vijungco of Adobe Systems Inc. in Support of the Opposition to Plaintiffs'
 19 Motion for Class Certification (ECF No. 215, Exhibit 15) ("Vijungco Decl."), paragraph 3,
 20 similarly establishes that Adobe's recruiting and hiring data, policies and strategies are
 21 confidential and that public dissemination of that information could cause Adobe competitive
 22 harm.

23 8. Specifically, Adobe seeks to keep the redacted parts of the following documents
 24 under seal:

25 **Cisneros Ex. 7, December 6, 2013 Amended Expert Report of Edward A. Snyder, Ph.D.**

26 9. Adobe seeks to seal the following portions of the December 6, 2013 Amended
 27 Expert Report of Edward A. Snyder, Ph.D.:

28 a) Redacted portion of paragraph 36 and footnote 15 on pages 17 to 18 contain

1 confidential information regarding Adobe's recruiting and hiring strategies and
2 practices.

3 **Cisneros Ex. 10, December 11, 2013 Rebuttal Report of Matthew Marx**

4 10. Adobe seeks to seal the following portion of the December 11, 2013 Rebuttal
5 Report of Matthew Marx:

- 6 a) Exhibit 3 reveals confidential information about the number of employees at
7 Adobe in a specific position.

8 I declare under penalty of perjury under the laws of the United States that the foregoing is
9 true and correct. Executed this 14th day of April 2014 in San Francisco, California.

10
11
12 By: /s/ Lin W. Kahn

Lin W. Kahn